



Docket No.: S0530.0003  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Nobuyuki Saruya et al.

Application No.: 10/633,668

Confirmation No.: 5313

Filed: August 5, 2003

Art Unit: 3739

For: ENDOSCOPE APPARATUS

Examiner: J. P. Leubecker

**RESPONSE TO RESTRICTION REQUIREMENT**

MS Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the restriction requirement set forth in the Office Action mailed April 25, 2005, Applicant hereby provisionally elects Group 1, claims 1-11, 17-19, 21 and 22 drawn to an endoscope apparatus, for continued examination.

Applicants respectfully traverse this Restriction Requirement. The Restriction Requirement states that Groups 1, 2 and 3 are unrelated. Applicants respectfully disagree. As explained in the MPEP sections cited in the Restriction Requirement (Section 806.04 and 808.01) this type of Restriction Requirement should only be used when the Applicant is claiming two entirely different inventions such as a shoe and a locomotive. Clearly, this is not the case with the present Groups of claims. Each of the Groups is claiming an endoscope apparatus as indicated in the wording of the Groups in the Restriction Requirement itself. Accordingly, Applicants respectfully submit that as each of the Groups are drawn to an endoscope apparatus they are related and therefore the Restriction Requirement is improper. Withdrawal of the restriction of the claims of the present application is therefore respectfully requested.

Applicants reserve the right to file one or more divisional applications directed to the subject matter of the non-elected claims.

Consideration and allowance of the application is respectfully solicited.

Dated: May 24, 2005

Respectfully submitted,

By

Michael J. Scheer

Registration No.: 34,425

DICKSTEIN SHAPIRO MORIN &  
OSHINSKY LLP

1177 Avenue of the Americas  
41st Floor

New York, New York 10036-2714

(212) 835-1400

Attorney for Applicant